

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

NOV 03 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

LEONARDO FRANCISCO HERRERA
MENDEZ,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 03-72646

Agency No. A75-613-750

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted October 21, 2005^{**}
Pasadena, California

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Herrera Mendez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' (BIA) denial of his motion to reopen removal proceedings to apply for cancellation relief as a battered spouse under 8 U.S.C.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1229b(b)(2)(A). We have jurisdiction pursuant to 8 U.S.C. § 1252(b)(2). We review the denial of a motion to reopen for abuse of discretion. *See De Martinez v. Ashcroft*, 374 F.3d 759, 761 (9th Cir. 2004). We deny the petition for review.

The BIA did not abuse its discretion in determining that Herrera Mendez's motion to reopen was not supported by previously unavailable evidence. 8 CFR § 1003.2(c)(1); *see INS v. Doherty*, 502 U.S. 314, 323 (1992).

PETITION FOR REVIEW DENIED.